

AMHERST TOWN WARRANT

**The State of New Hampshire
March 9, 2004**

Polls will be open from 6:00 a.m. to 8:00 p.m. at Souhegan High School

To the inhabitants of the Town of Amherst in the County of Hillsborough and State of New Hampshire, qualified to vote in Town affairs:

You are hereby notified that the Annual Meeting of the Town of Amherst will be held, in accordance with "Senate Bill 2" (NH RSA 40:13). The first session, to transact all business other than voting, is on Wednesday, February 4, 2004 at 7:00 p.m. at the Souhegan High School Auditorium. The second session, voting by official ballot at the polls is on Tuesday, March 9, 2004 at the Souhegan High School from 6:00 a.m. to 8:00 p.m.

Article 1.

To choose all necessary Town Officers for the ensuing terms as follows:

- 2 Selectmen for 3 Years
- 1 Trustee of Trust Funds for 3 Years
- 1 Checklist Supervisor for 6 Years
- 1 Board of Adjustment Member for 3 Years
- 1 Moderator for 2 Years
- 1 Cemetery Trustee for 3 Years
- 3 Library Trustees for 3 Years.

Article 2.

To see if the Town will raise and appropriate, the sum of five million five hundred thousand dollars (\$5,500,000) for the purchase of open space lands or other property interests therein all of which may be expended to meet conservation and passive recreation needs, provided also, that an amount no greater than 15 percent (or \$825,000) of said \$5,500,000 may be expended to acquire open space lands to meet active recreation needs, if suitable parcels become available, and to authorize the issuance of not more than \$5,500,000 of bonds or notes in accordance with the provisions of the Municipal Finance Act (RSA 33) and to authorize the Selectmen to issue and negotiate such bonds or notes and to determine the rate of interest thereon; furthermore, to authorize the Selectmen to acquire said property on such terms and conditions as the Selectmen deem appropriate, provided that the Selectmen, in exercising their authority to utilize these funds to purchase said property shall comply with the requirements of RSA 41:14-a, including the requirement for at least two (2) public hearings prior to binding the town to any such purchase, and, further, that the amount raised and appropriated herein may be used to defray the costs attributable to due diligence inspections, title search charges, closing costs and

other similar charges associated with any such acquisition. The authorization to borrow provided hereunder shall not lapse until five (5) years from the date of the passage of this article. 3/5 Ballot Vote Required. **(The Selectmen unanimously recommend a yes vote. The Advisory W&M Committee supports this article by a vote of 7-0.)**

(Tax Impact up to 44 cents per thousand for a 20 year bond)

Article 3.

To see if the Town will raise and appropriate, the sum of two hundred forty nine thousand five hundred dollars (\$249,500) for the purpose of establishing a turning lane and traffic light on Boston Post Road and Davis Witty Drive, and to authorize the issuance of not more than \$249,500 of bonds or notes in accordance with the provisions of the Municipal Finance Act (RSA 33) and to authorize the Selectmen to issue and negotiate such bonds or notes and to determine the rate of interest thereon. 3/5 Ballot Vote Required. **(The Selectmen unanimously recommend a yes vote. The Advisory W&M Committee supports this article by a vote of 4-3.)**

(Tax Impact 3 cents per thousand for a 10 year bond)

Article 4.

To see if the Town will raise and appropriate the sum of two hundred fifty thousand dollars (\$250,000) for the purpose of purchasing a replacement Tanker for the Fire Department, and to authorize the issuance of not more than \$250,000 of bonds or notes in accordance with the provisions of the Municipal Finance Act (RSA 33) and to authorize the Selectmen to issue and negotiate such bonds or notes and to determine the rate of interest thereon. 3/5 Ballot Vote Required. **(The Selectmen, by a vote of 4 to 1, recommend a yes vote. The Advisory W&M Committee supports this article by a vote of 7-0.)**

(Tax Impact 3 cents per thousand for a 10 year bond)

Article 5.

To see if the Town will raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth herein, totaling \$7,249,780.95, Should this article be defeated, the operating budget shall be \$6,985,709.41 which is the same as last year, with certain adjustments required by previous action of the Town or by law, the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only. This article does not include any other appropriation. **(The Selectmen unanimously recommend a yes vote. The Advisory W&M Committee supports this article by a vote of 7-0.)**

(Tax Impact 20.6 cents per thousand)

Article 6.

To see if the Town will vote to approve the cost items included in the collective bargaining agreement reached between the Selectmen and the Teamster's Union (***Department of Public Works Union***) and further to raise and appropriate the sum of \$50,953.00 for the current fiscal year, such sum representing the additional costs attributable to the increase in salaries and benefits over those of the appropriation at current staffing levels paid in the prior fiscal year.

<u>FY'05 Increase</u>	<u>FY'06 Estimated Increase</u>	<u>FY'07 Estimated Increase</u>
\$50,953	\$60,000	\$65,000

(The Selectmen unanimously recommend a yes vote. The Advisory W&M Committee supports this article by a vote of 7-0.)

(Tax Impact 4 cents per thousand)

Article 7.

To see if the Town will vote to approve the cost items included in the collective bargaining agreement reached between the Selectmen and the American Federation of State, County & Municipal Employees Union (***Police Union***) and further to raise and appropriate the sum of \$60,363.00 for the current fiscal year, such sum representing the additional costs attributable to the increase in salaries and benefits over those of the appropriation at current staffing levels paid in the prior fiscal year.

<u>FY'05 Increase</u>	<u>FY'06 Estimated Increase</u>
\$60,363	\$67,000

(The Selectmen unanimously recommend a yes vote. The Advisory W&M Committee supports this article by a vote of 7-0.)

(Tax Impact 4.9 cents per thousand)

Article 8.

To see if the Town will vote to establish a Revaluation Capital Reserve Fund under the provisions of RSA 35:1 for the purpose of revaluation and to raise and appropriate \$25,000. Further, to name the Board of Selectmen as agents to expend from said fund in accordance with RSA 35:15 II. **(The Selectmen unanimously recommend a yes vote. The Advisory W&M Committee supports this article by a vote of 7-0.)**

(Tax Impact 2 cents per thousand)

Article 9.

To see if the Town will appropriate the sum of one ninety eight thousand dollars (\$198,000) for the purpose of purchasing two replacement two wheeled dump trucks for the Department of Public Works and authorize the withdrawal from the Capital Reserves Highway Vehicle Fund established for this purpose. **(The Selectmen unanimously recommend a yes vote. The Advisory W&M Committee supports this article by a vote of 7-0.)**

(No Tax Impact)

Article 10.

To see if the Town will raise and appropriate the sum of one hundred seventy five thousand dollars (\$175,000) for the continuing reconstruction of the Amherst Town Hall to include reconfiguring the historic front entrance, hallway, and upgrades to the mechanical (heating and A/C) and electrical systems. This will be a non-lapsing appropriation per RSA 32:7, VI and will not lapse until the project is completed or by June 30, 2006, whichever is sooner. **(The Selectmen unanimously recommend a yes vote. The Advisory W&M Committee supports this article by a vote of 6-1.)**

(Tax Impact 14 cents per thousand)

Article 11.

To see if the Town will raise and appropriate the sum of twenty thousand dollars (\$20,000) for the Peabody Mill Environmental Center's capital campaign to expand and renovate the building. **(The Selectmen unanimously recommend a yes vote. The Advisory W&M Committee supports this article by a vote of 6-0-1, one abstention.)**

(Tax Impact 1.6 cents per thousand)

Article 12.

To see whether the Town will vote to amend the terms of the Recreation Revolving Fund, created by the passage of Article 13 at the Annual Town Meeting in March of 2001, and authorize the Recreation Director, subject to the approval of the Board of Selectmen, to expend said monies for any purpose consistent with the purpose and intent of RSA 35-B. **(The Selectmen unanimously recommend a yes vote. The Advisory W&M Committee supports this article by a vote of 6-1.)**

(No Tax Impact)

Article 13.

To see if the Town will vote to expand the Veteran's Exemption from \$100.00 to \$150.00 per year in accordance with RSA 72:28. **(The Selectmen unanimously recommend a yes vote. The Advisory W&M Committee supports this article by a vote of 6-1.)**

(Tax Impact 2 cents per thousand)

Article 14.

To see if the Town will vote to raise and appropriate up to \$100,000 to be added to the Recreation Capital Reserve Fund, and authorize the use of the (June 30, 2004), fund balance in that amount for this purpose. **(The Selectmen unanimously recommend a yes vote. The Advisory W&M Committee has not yet taken a vote.)**

(No Tax Impact)

Article Petition - 1

The town of Amherst shall purchase said property known as Bon terrain, designated Map 2/Lot 2 and 26 at its fair market value as soon as possible after the passage of this provision in March, 2004. The fair market value shall be obtained by having Conservation Commission Chairman choose three appraisors, agreed on by the Commission, and then taking the average of those appraisals and paying that amount to the current owner/s. The land will then be held as open conservation land, managed by the Conservation Commission, in perpetuity.

Allowed uses will include passive, environmentally protective recreation including hiking trails, and the establishment of organically managed ball fields that contain no impervious areas. Parking for such ball fields shall be designed to capture runoff in carbon lined catch areas maintained by the town. At least three quarters of the land shall be maintained in a forested or high vegetative state, though trails would be allowed through such area. The remainder could be more active recreational uses that do not require impervious cover and are organically managed including ball fields. **(The Selectmen unanimously recommend a no vote. The Advisory W&M Committee does not support this article by a vote of 0-7.)**

PROPOSED ZONING CHANGES
“Renumbered for Placement on Single Town Ballot”

Article 15. (ZA No. 1)

Add to: Art. III: Sec. 3-18: *CONDITIONAL USE PERMITS*

Section 1 *GENERAL*

Conditional Use Permits as herein provided for shall be deemed to be permitted uses in their respective zones, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements and standards of this Ordinance. All such cases are hereby declared to possess characteristics of such unique and special form that each specific use shall be considered as an individual case. The applicant shall bear the burden of persuasion, through the introduction of sufficient evidence through testimony or otherwise, that the development, if completed as proposed, will comply with this Article and will satisfy the specific requirements for the use contained in the ordinance.

Section 2 *PLANNING BOARD TO ADMINISTER*

Wherever a conditional use is authorized by this ordinance, the authority to administer or grant Conditional Use Permits shall be vested in the Planning Board .

Section 3 *STANDARDS APPLICABLE TO ALL CONDITIONAL USE PERMITS*

A. *Conditions for Conditional Use Permits*

Before the Planning Board considers the approval of an application for a Conditional Use Permit, the applicant shall prove to the satisfaction of the Planning Board that all the following conditions have been met:

- 1. That the property in question is in conformance with the dimensional requirements of the zone and that the proposed use is consistent with the Amherst Master Plan.*
- 2. That the proposal meets the purposes of the ordinance under which the application is proposed.*
- 3. That there will be no significant adverse impacts resulting from the proposed use upon the public health, safety and general welfare of the neighborhood and the Town of Amherst.*

- 4. That the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or inappropriate lighting than any use of the property permitted under the existing zoning district ordinances.**
- 5. That the proposed use will not adversely affect the ground water resources of Amherst, in particular the Aquifer Conservation District as defined in Section 4-13 of the Amherst Zoning Ordinance.**

Response to each of the above conditions shall be provided in writing on forms available in the Amherst Zoning and Planning Office.

B. The applicant shall file a Non-Residential Site Plan Review application in accordance with the NON-RESIDENTIAL SITE PLAN REVIEW REGULATIONS with the Amherst Planning Board.

C. Conditions of Approval

- 1. The Planning Board may attach such conditions to its approval as are reasonable, necessary and appropriate.**
- 2. All Conditional Use Permit uses are hereby declared to have special characteristics that shall be considered on a case-by case basis.**

D. Limits on a Conditional Use Permit

- 1. Substantial construction must commence within one (1) year of the
Planning Board approval of the Conditional Use Permit and Site Plan
Approval.**
- 2. If construction is not commenced within this period, the Conditional Use
Permit approval may be extended for up to one (1) additional year upon
Approval of the Amherst Planning Board. If construction is not commenced
Within this extended period the Conditional Use Permit is declared null and
void.**

Section 4 PERMITS FOR CONDITIONAL USE PERMITS

A building permit for a Conditional Use Permit use shall not be issued by the Board of Selectmen or their duly appointed representative, the Administrative official, until so directed by the Planning Board who shall first be satisfied that all the standards and conditions of this article and the Ordinance have been met.

Add to: Art. VIII, Sec. 8-5 Affordable Housing – Allowed by Conditional Use Permit

Add to: Art. IX, Sec. 9-1 Meaning of Certain Words: Open Space Plan – Allowed by Conditional Use Permit

Add to: Art. IX, Sec. 9-1 Meaning of Certain Words: Planned Residential Development (PRD) – Allowed by Conditional Use Permit

Article 16. (ZA No. 2)

Delete: Art. III, Sec. 3-5 Off-Street Parking Requirement

Article 17. (ZA No. 3)

Add to: Art. IV, Sec. 4-3 (RRZ), C: 4. No new principal structure shall be constructed to a height greater than thirty-five (35) feet exclusive of chimneys or cupolas, measured from the lowest average adjacent exterior elevation. No new structure shall have a floor area ratio greater than 15%.

Add to: Art. IV, Sec. 4-5 (NRZ), C: 4. No new principal structure shall be constructed to a height greater than thirty-five (35) feet exclusive of chimneys or cupolas, measured from the lowest average adjacent exterior elevation. No new structure shall have a floor area ratio greater than 15%.

Add to: Art. IV, Sec. 4-17 (NTZ), C: 4. No new principal structure shall be constructed to a height greater than thirty-five (35) feet exclusive of chimneys or cupolas, measured from the lowest average adjacent exterior elevation. No new structure shall have a floor area ratio greater than 15%.

Article 18. (ZA No. 4)

Add to: Art. IV, Sec. 4-3 (RRZ), B. 1. The minimum area shall contain no wetland as defined in Art. IV, Sec. 4-11, no flood plain as defined in Art. IV, Sec. 4-10), and no slopes greater than 20 %.

Add to: Art. IV, Sec. 4-5 (NRZ), B. 1. The minimum area shall contain no wetland as defined in Art. IV, Sec. 4-11, no flood plain as defined in Art. IV, Sec. 4-10), and no slopes greater than 20 %.

Add to: Art. IV, Sec. 4-17 (NTZ), B. 1. *The minimum area shall contain no wetland as defined in Art. IV, Sec. 4-11, no flood plain as defined in Art. IV, Sec. 4-10), and no slopes greater than 20 %.*

Change: Art. IX, Sec. 9-1 Meaning of Certain Words: Open Space Plan, DENSITY: Slopes and Wetlands: No wetlands or slopes over 25% will be used to compute the minimum lot area. **To:** No wetlands, ***no flood plain as defined in Art. IV, Sec. 4-10,*** or slopes over **20%** will be used to compute the minimum lot area.

Change: Art. IX, Sec. 9-1 Meaning of Certain Words: Planned Residential Development (PRD), MINIMUM LOT AREA: ... areas of slope equal to or greater than 25%, ... **To:** ... areas of slope equal to or greater than **20%**,

Article 19. (ZA No. 5)

Delete: Art. VIII, Sec. 8-4: Impact Fees

Add to: Art. VIII, a new Sec. 8-4: ***Impact Fee Ordinance***

SECTION 1. PURPOSE

1.1 This ordinance is enacted pursuant to RSA 674:16 and 674:21, and in order to:

- ***Promote public health, safety, convenience, welfare, and prosperity;***
- ***Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Amherst;***
- ***Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services;***
- ***Provide for the harmonious development of the municipality and its environs;***
- ***Ensure the proper arrangement and coordination of streets; and,***
- ***Ensure streets of sufficient width to accommodate existing***

and prospective traffic.

SECTION 2. AUTHORITY

2.1 *The planning board may, as a condition of approval of any subdivision or site plan, and when consistent with applicable board regulations, require an applicant to pay an impact fee for the applicant's fair share of off-site improvements to public facilities affected by the development. The term "impact fee" shall be as defined in RSA 674:21, V.*

2.2 *Nothing in this ordinance shall be construed to limit the existing authority of the Planning Board to disapprove proposed development that is scattered or premature, or that would require an excessive expenditure of public funds, or that would otherwise violate applicable ordinances and regulations. Nothing in this ordinance shall be construed to limit the planning board's authority to require off-site work to be performed by the applicant, in lieu of paying an impact fee, or the board's authority to impose other types of conditions of approval. Nothing in this ordinance shall be construed to affect types of fees governed by other statutes, town ordinances or regulations.*

SECTION 3. ASSESSMENT METHODOLOGY

3.1 *Proportionality: The amount of the impact fee shall be calculated by the planning board to be a proportional share of municipal capital improvement costs that is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee.*

3.2 *Existing Deficiencies: Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.*

3.3 *Individual Assessments and Schedules of Impacts: The planning board may assess impact fees on an individual basis, or it may prepare and adopt schedules of impact fees for any municipal capital facility enumerated in RSA 674:21, V. If the planning board adopts a schedule of impact fees, then it shall use the schedule to assess impact fees for the particular municipal capital facility for which the schedule was prepared. If the planning board subsequently repeals a schedule of impact fees, the board may assess impact fees on an individual basis. The planning board's adoption of a schedule for one type of municipal capital facility shall not limit the authority of the planning board to assess and of the town to collect impact fees for other types of municipal capital facilities for which no schedule has been adopted, subject to the limitations of paragraphs 3.1 and 3.2 above. The adoption, amendment, or repeal of any*

impact fee schedule by the planning board shall be according to the procedures in RSA 675:6 and 7.

3.4 Waivers

The planning board may but has no obligation to grant full or partial waivers of impact fees where the planning board finds that one or more of the following criteria are met with respect to the particular capital facilities for which impact fees are normally assessed.

- a. The planning board may waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that would involve a contribution of real property or the construction of capital facilities, the planning board shall submit a copy of the waiver request to the board of selectmen for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. As a condition of the planning board granting such a waiver, the party seeking the waiver shall acknowledge in writing that the value of the contribution shall not be subject to the refund provisions of paragraph 4.3 below, and that the town of Amherst shall be under no obligation to recompense the developer or his successor in interest because of any failure of the developer or successor at any time to complete or undertake the development, in whole or in part, for which the impact fee would have been assessed.***
- b. The planning board may waive an impact fee assessment for a particular capital facility where it finds that the subject property has previously been assessed for its proportionate share of public capital facility impacts, or has contributed payments or constructed capital facility capacity improvements equivalent in value to the dollar amount of the fee(s) waived.***
- c. A person required by this ordinance to pay an impact fee (feepayer) may request a full or partial waiver of the amount of the impact fee for a particular development based on the results of an independent study of the demand on capital facility capacity and related costs attributable to that development. In support of such request, the feepayer shall prepare and submit to the planning board an independent fee calculation or other relevant study and supporting documentation of the capital facility impact of the proposed development. The independent calculation or study shall set forth***

the specific reasons for departing from the methodologies and schedules adopted by the town. The planning board shall review such study and render its decision. All costs incurred by the town for the review of such study, including consultant and counsel fees, shall be paid by the feepayer.

- d. The planning board may waive the assessment of impact fees in situations where, in its sole judgment, legitimate public purposes will be served by the waiver.***

SECTION 4. ADMINISTRATION

4.1 Accounting: In accordance with RSA 673:16, II and RSA 674:21, V(c), impact fees shall be accounted for separately, shall be segregated from the town's general fund, may be spent upon order of the board of selectmen, and shall be used solely for the capital improvements for which they were collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fees were collected to meet.

4.2 Assessment, Collection, and Security: All impact fees required pursuant to this ordinance shall be assessed and collected, and any financial security required in the interim between assessment and collection, in a manner that is consistent with RSA 674:21, V.

4.3 Refund: Any portion of an impact fee that has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected shall be refunded, with any accrued interest, to the assessed party or successor in interest:

- *When the subdivision or site plan approval expires under the respective rules of the planning board, or under the terms of the decision, without having become vested under RSA 674:39, and without any extension being granted by the planning board; OR***
- *When such approval is revoked under RSA 676:4-a; OR***
- *Six years after its collection, or, if any extension of development approval is granted by the planning board, six years after such extension is granted; OR***
- *Six years after its collection, whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the town, and the legislative body of the town has failed to appropriate the town's share of the capital improvement costs.***

SECTION 5. APPEALS

In accord with RSA 676:5, III, appeals of the decision of the planning board in administering this ordinance may be made to superior court, as provided in RSA 677:15.

SECTION 6. EFFECTIVE DATE

This ordinance was adopted by the legislative body of the town of Amherst, acting at its duly warned annual meeting on _____.

Article 19. (ZA No. 6)

Delete: Art. IV, Sec. 4-3 RESIDENTIAL / RURAL, A. Permitted Uses 8. i, j

Delete: Art. IV, Sec. 4-10 FLOOD PLAIN, A. Permitted Uses 7. ix, x

Delete: Art. IV, Sec. 4-12 WATERSHED PROTECTION DISTRICT, A. Permitted Uses 5. ix, x

Article 20. (ZA No. 7)

Delete: Art. IX, Sec. 9-1 Meaning of Certain Words: **Frontage**

Add to: Art. IX, Sec. 9-1 Meaning of Certain Words: **Frontage: The continuous distance of any property line of a lot which abuts a legally accessible public street as classified by RSA 229:5, or a private road approved by the Planning Board.**

Article 21. (ZA No. 8) (By Petition)

Amend: Art. IV, Sec. 4-13 Aquifer Conservation District, as follows:

At the end of the second paragraph called "Location", insert the following new paragraph:

"An additional area known as the Bon Terrain Buffer Zone is also established that includes a 3000 foot radius of land around the Bon Terrain Well where all open land will be maintained as a vegetative buffer in perpetuity, except for permitted uses."

Immediately after the title words " A. Permitted Uses" insert the following:

“, except for the Bon Terrain Buffer Zone” and, dropping a line, **(1)**

Immediately after Section A. 7, insert the new subsection.

(2) In the Bon Terrain Buffer Zone, a 3000 foot radius buffer around the Bon Terrain Well, there will be no permanent buildings allowed to be constructed on any open land or building lots in that radius henceforth

from the date of passage of this language by the town. Permitted uses shall only include

- a) The establishment of passive, environmentally protective recreation including hiking trails.***
- b) The creation of no more than 4 organically, Town managed public ball fields that do not require permanent buildings, do not create any impervious areas, and allow only benign, organic chemicals in their management.***
- c) Parking for such ball fields has to be sloped so that all water is collected in carbon lined catch areas that will be maintained by the Town, and no permanent restroom facilities can be created.***

Immediately after the words in section B. Prohibited Uses, "The following uses are prohibited in this District" insert the following:

"and the Bon Terrain Buffer Zone:" and dropping a line insert, ***(1)***

Immediately after "B.(7) Gas Stations, insert the following:

(2) The additional following uses are prohibited in the Bon Terrain Buffer Zone:

- (a) Industrial or commercial uses and construction of any kind, in the Industrial or Commercial Zones respectively;***
- (b) Residential uses or any other construction of permanent structures on open land, excluding the construction of garages or home outbuildings on lots where a home already is constructed and occupied.***

On January 7, 2004, the Planning Board voted to recommend a no vote on Amendment No. 8

Given under our hands and seal this 20th day of January 2004

A true copy of warrant – ATTEST
